

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:

EDWARDLO AND AUDREY HOLMES,
DEBTORS

§
§
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§
§

CASE NO. 20-40912
(Chapter 7)

**MOTION FOR AUTHORITY TO REJECT LEASE AND EVICT TENANT RESIDING
IN PROPERTY LOCATED AT 3368 N. ALMOND DRIVE, RIALTO, CA. 92377**

Notice

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this pleading unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading **WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE** listed in the certificate of service unless the court shortens or extends the time for filing such response. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the court may enter an order granting the pleading. If an objection is filed and served in a timely manner, the court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The court reserves the right to set a hearing on any matter.

TO THE HONORABLE BRENDA T. RHOADES, U.S. BANKRUPTCY JUDGE:

Christopher J. Moser, Trustee ("**Trustee**") files his Motion for Authority to Reject Lease and Evict Tenant Residing in Property Located at 3368 N. Almond Drive, Rialto, Ca. 92377 ("**Motion**") pursuant to the provisions of 11 U.S.C. §365 as follows:

1. On April 2, 2020, Edwardlo and Audrey Holmes ("**Debtors**") filed with this Court a voluntary petition under Chapter 7 of the Bankruptcy Code.
2. Christopher J. Moser is the acting Chapter 7 Trustee of the Debtors' bankruptcy estate.
3. The bankruptcy estate owns real property and improvements located at 3368 N. Almond Drive, Rialto, Ca. 92377 (the "**House**"). Christopher J. Moser is the acting Chapter 7 Trustee of the Debtors' bankruptcy case.

4. The House is occupied by one or more tenants who are not paying rent to live in the House. The Residential Lease Agreement which the Tenants entered into with the Debtors expires March 1, 2021 (the “*Lease*”). A copy of the Lease is attached hereto as “**Exhibit A.**”

5. Trustee intends to sell the House. The Court entered an *Agreed Order Authorizing Trustee to Sell Real Property Free and Clear of All Liens, Claims and Encumbrances Located at 3368 N. Almond Drive, Rialto, Ca. 92377* [Dkt. No. 27] authorizing the Trustee to sell the House. The Trustee has filed an *Amended Motion for Authority to Sell Real Property Free and Clear of All Liens, Claims and Encumbrances Located at 3368 N. Almond Drive, Rialto, Ca. 92377* (the “*Amended Motion to Sell*”) [Dkt. No. 41].

6. In that regard, the Trustee must reject the Lease and vacate the house so that the House can be sold in an expeditious fashion.

7. Trustee seeks an order of this Court authorizing him to reject the Lease and commence eviction proceedings in Rialto, California to evict the tenants from the House.

WHEREFORE, PREMISES CONSIDERED Trustee prays that this Court authorize the Trustee to reject the Lease and commence eviction proceedings against the tenants residing in the House and that Trustee be granted such other and further relief to which he may be justly entitled.

Respectfully submitted,

**QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.**

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By: /s/ Frank S. Patel

Christopher J. Moser

State Bar No. 14572500

Frank (Faizan) S. Patel

State Bar No. 24116882

ATTORNEYS FOR TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served by electronic transmission via the CM/ECF system upon all parties registered to receive electronic notice in this bankruptcy case, and/or regular U.S. mail, postage prepaid, on this 12th day of January 2021 on the following:

Office of the U.S. Trustee
110 N. College Ave., Suite 300
Tyler, TX 75702
(Via ECF)

Edwardlo and Audrey Holmes
2405 Dartmouth Drive
Flower Mound, TX 75022
(Via regular mail)

Daniel C. Durand, III
Durand and Associates
522 Edmonds, Suite 101
Lewisville, TX 75067
(Via ECF)

Erica Williams
3368 N. Almond Drive
Rialto, Ca. 92377
(Via First-Class mail)

Tenant
3368 N. Almond Drive
Rialto, Ca. 92377
(Via First-Class mail)

Select Portfolio Servicing, Inc.
3217 S. Decker Lake Drive
Salt Lake City, Ut. 84119
Thousand Oaks, Ca. 91362
(Via regular mail)

Select Portfolio Servicing, Inc.
Attn: Bankruptcy Department
P.O. Box 65250
Salt Lake City, Ut. 84165
(Via regular mail)

Stephen Wu, Esq.
Parkway Office Center, Suite 900
14160 Dallas Parkway
Dallas, Texas 75254
(Via regular mail)

Internal Revenue Service
P.O. Box 7346
Philadelphia, Pa. 19101-0424
(Via regular mail)

/s/ Frank S. Patel